

AMENDED IN SENATE MARCH 25, 2010

**SENATE BILL**

**No. 1100**

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**Introduced by Senator Corbett**

February 17, 2010

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An act to add Article 3 (commencing with Section 42450.1) to Chapter 8 of Part 3 of Division 30 of the Public Resources Code, relating to product stewardship.

LEGISLATIVE COUNSEL'S DIGEST

SB 1100, as amended, Corbett. Product stewardship: household batteries.

The California Integrated Waste Management Act of 1989, administered by the Department of Resources Recycling and Recovery, is required to reduce, recycle, and reuse solid waste generated in the state to the maximum extent feasible in an efficient cost-effective manner to conserve water, energy, and other natural resources.

~~This bill would require the department by January 1, 2012, to establish a baseline collection rate for the amount of household batteries that are discarded and subsequently collected. The bill would provide a procedure for determining the collection rate applicable commencing January 1, 2013.~~

The bill would require, by September 30, 2011, a producer or the product stewardship organization created by one or more producers of a covered product to submit a product stewardship plan to the department, which would be required to include specified elements, including ~~performance goals and product goals and a collection rate for the household batteries subject to the plan, calculated in a specified following manner.~~ ~~By January 1, 2012, the~~ The department would be required to review ~~and either approve or disapprove the~~ a product

stewardship plan submitted to the department *and deem the plan either complete or incomplete within 45 days after receipt.*

The bill would prohibit a producer, *wholesaler*, or retailer, on and after January 1, 2012, from selling a household battery unless the ~~producer or product stewardship organization of the household battery has submitted a plan to the department that for that battery is approved~~ *deemed completed* by the department. The act would require a producer of a household battery to ~~collect~~ *implement* the household battery program pursuant to the product stewardship plan ~~and to meet the performance goals included in the product stewardship plan, including achieving the collection rate.~~

Each producer or product stewardship organization implementing a product stewardship plan would be required to prepare and submit to the department an annual report describing the activities carried out pursuant to the product stewardship plan ~~and the department would be required to adopt regulations, by January 1, 2012, specifying the information required to be included in the annual product stewardship plan report.~~

A producer or product stewardship organization submitting a product stewardship plan would be required to pay the department an unspecified fee when submitting the plan for review and approval and to pay an annual *unspecified* administrative fee, ~~determined as an unspecified percentage of the costs of implementing the plan.~~ The bill would provide for the imposition of administrative civil penalties upon a producer ~~who~~ *that* does not comply with the bill's requirements or a producer, *wholesaler*, or retailer selling household batteries in violation of the bill. The bill would create the Household Battery Stewardship Account in the existing Integrated Waste Management Fund and would require that the administrative fees be deposited into that account and that the penalties be deposited into the Household Battery Stewardship Penalty Subaccount that the bill would create in that account. The bill would authorize the fees and penalties to be expended, upon appropriation by the Legislature, to cover the department's program implementation costs and as incentives to enhance recyclability and redesign efforts and to reduce environmental and safety impacts of household batteries.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. The Legislature finds and declares all of the  
2 following:

3     (a) In early 2006, all household batteries were classified by the  
4 state as universal waste and prohibited from being disposed of in  
5 solid waste landfills. *Under state law, “household batteries” means*  
6 *batteries made of mercury, alkaline, carbon-zinc, nickel-cadmium,*  
7 *and other batteries typically generated as household waste,*  
8 *including, but not limited to, batteries used in hearing aids,*  
9 *cameras, watches, computers, calculators, flashlights, lanterns,*  
10 *standby and emergency lighting, portable radio and television*  
11 *sets, meters, toys, and clocks, but excluding lead-acid batteries.*

12     (b) Effective July 1, 2006, state law prohibited most retailers  
13 from selling rechargeable batteries in the state unless they have a  
14 system in place for collecting used rechargeable batteries from  
15 consumers.

16     (c) Approximately 80 percent of batteries sold in this state are  
17 alkaline batteries, and are not covered under the retail take-back  
18 requirements.

19     (d) Local governments throughout the state are responsible for  
20 the collection and management of household batteries, and to  
21 manage this hazardous waste, these local governments and  
22 taxpayers pay an average of eight hundred dollars (\$800) per ton,  
23 or tens of millions of dollars each year.

24     (e) Because other types of recycling programs have proven to  
25 have limited success, state and regional governments in Europe  
26 and Canada have adopted producer responsibility programs to  
27 redirect the responsibility for the end-of-life management of  
28 discarded hazardous and hard to manage products from local  
29 governments and retailers primarily to producers.

30     (f) ~~The~~ *After many public hearings and discussions, the former*  
31 *California Integrated Waste Management Board adopted an overall*  
32 *Framework for an Extended Producer Responsibility (EPR)*  
33 *guidance document as a policy priority in January 2008.*

34     (g) The program established by this act is intended to reduce  
35 costs to local government, to harmonize the state’s producer  
36 responsibility obligations with other national and international  
37 programs, and to enhance the protection of public health and

1 environment through safer product design, use, and end-of-life  
2 management.

3 SEC. 2. Article 3 (commencing with Section 42450.1) is added  
4 to Chapter 8 of Part 3 of Division 30 of the Public Resources Code,  
5 to read:

6  
7 Article 3. Product Stewardship for Household Batteries

8  
9 42450.1. For purposes of this article, and unless the context  
10 otherwise requires, the definitions in this article govern the  
11 construction of this article.

12 (a) “Brand” means a name, symbol, word, or mark that identifies  
13 a household battery, rather than its components, and attributes the  
14 household battery to the owner or licensee of the brand as the  
15 producer.

16 (b) “Collection rate” means a quantitative measure *established*  
17 *in each household battery stewardship plan* that establishes the  
18 amount of household batteries required to be collected by the  
19 household battery stewardship system for that household battery  
20 by an established date. The collection rate is included as a  
21 component of the ~~performance~~ *product* goals for a household  
22 battery.

23 (c) “Department” means the Department of Resources Recycling  
24 and Recovery.

25 (d) “Household battery” has the same meaning as defined in  
26 subdivision (c) of Section 42450.

27 ~~(e) “Performance goal” means the collection rate of household~~  
28 ~~batteries and may include, but is not limited to, the reuse and~~  
29 ~~recycling rates established by the household battery stewardship~~  
30 ~~plan for that household battery.~~

31 *(e) “Household battery stewardship organization” means an*  
32 *organization appointed by one or more producers to act as an*  
33 *agent on behalf of the producer to design, submit, and administer*  
34 *a household battery stewardship plan pursuant to this article.*

35 *(f) “Household battery stewardship plan” or “plan” means a*  
36 *plan written by an individual producer or a household battery*  
37 *stewardship organization, on behalf of one or more producers,*  
38 *that includes all of the information required by Section 42450.2.*

39 (f)

1 (g) “Producer” shall be determined, with regard to a household  
2 battery that is sold, offered for sale, or distributed in the state, as  
3 meaning one of the following:

4 (1) The person who manufactures the household battery and  
5 who sells, offers for sale, or distributes that household battery in  
6 the state under that person’s own name or brand.

7 (2) If there is no person who sells, offers for sale, or distributes  
8 the household battery in the state under the person’s own name or  
9 brand, the producer of the household battery is the owner or  
10 licensee of a trademark or brand under which the household battery  
11 is sold or distributed in the state, whether or not the trademark is  
12 registered.

13 (3) If there is no person who is a producer of the household  
14 battery for purpose of paragraphs (1) and (2), the producer of that  
15 household battery is the person who imports the household battery  
16 into the state for sale or distribution.

17 ~~(g)~~

18 (h) “Product stewardship” means requiring the producer of a  
19 household battery, and all other entities involved in the distribution  
20 chain of a household battery, to share in the responsibility of  
21 reducing the life cycle impact of the household battery and its  
22 packaging, including requiring the producer who makes design  
23 and marketing decisions for the household battery to bear the  
24 primary responsibility for this reduction.

25 ~~(k) “Product stewardship organization” means an organization~~  
26 ~~appointed by one or more producers to act as an agent on behalf~~  
27 ~~of the producer to design, submit, and administer a household~~  
28 ~~battery stewardship plan pursuant to this article.~~

29 ~~(l) “Product stewardship plan” or “plan” means a plan written~~  
30 ~~by an individual producer or a household battery stewardship~~  
31 ~~organization, on behalf of one or more producers, that includes all~~  
32 ~~of the information required by Section 42450.4.~~

33 ~~(m)~~

34 (i) “Product goal” means those qualitative or quantitative goals  
35 ~~determined by the producer to measure improvements that reduce~~  
36 ~~the life cycle impacts of a household battery. determined by the~~  
37 ~~producer to address and measure source reduction, design,~~  
38 ~~material content, packaging, and end-of-life management.~~

39 (j) “Program” means the system for the collection,  
40 transportation, recycling, and disposal of household batteries

1 *pursuant to a completed household battery stewardship plan that*  
2 *is financed and managed or provided by an individual producer,*  
3 *or collectively by one or more producers.*

4 ~~(n)~~

5 (k) “Recycling rate” means a quantitative measure that  
6 establishes the amount of collected household batteries that is  
7 recycled as compared to the total amount of household batteries  
8 that is collected, including the amount of the household batteries  
9 that is discarded for reuse, energy recovery, or safe disposal.

10 ~~(o)~~

11 (l) “Reuse rate” means a quantitative measure that establishes  
12 the amount of collected household batteries that is reused as  
13 compared to the total amount of household batteries that is  
14 collected, including the amount of household batteries that is  
15 discarded by recycling, energy recovery, or safe disposal.

16 ~~(p)~~

17 (m) “Reporting period” means the period commencing January  
18 1 and ending on December 31 of the same calendar year.

19 ~~(q)~~

20 (n) “Retailer” means a person that offers new household batteries  
21 in a retail sale, as defined in Section 6007 of the Revenue and  
22 Taxation Code, including a retail sale at retail through any means,  
23 including remote offerings such as sales outlets, catalogs, or an  
24 Internet Web site.

25 ~~(r)~~

26 (o) “Sell” or “sales” means any transfer of title of a household  
27 battery for consideration, including a remote sale conducted  
28 through a sale outlet, catalog, or Internet Web site or similar  
29 electronic means, but does not include a lease.

30 (p) “Wholesaler” means a person that offers new household  
31 batteries for sale in this state in a sale that is not a retail sale, as  
32 defined in Section 6007 of the Revenue and Taxation Code, and  
33 for which the household battery is intended to be resold.

34 ~~42450.2. On or before January 1, 2012, the department shall~~  
35 ~~establish a baseline collection rate for the amount of household~~  
36 ~~batteries that is discarded and subsequently collected, based on~~  
37 ~~existing collection data.~~

38 ~~42450.3. (a) The collection rate for a household battery shall~~  
39 ~~be determined in the following manner:~~

1 ~~(1) For the calendar year commencing January 1, 2013, the~~  
2 ~~collection rate shall be 5 percent more than the baseline collection~~  
3 ~~rate determined pursuant to Section 42450.2.~~

4 ~~(2) On and after January 1, 2014, the collection rate for~~  
5 ~~household batteries shall increase by no less than 5 percent annually~~  
6 ~~until a 95 percent collection rate is reached.~~

7 ~~(b) A producer may petition the department for an adjustment~~  
8 ~~to the collection rate. The department may grant an adjustment to~~  
9 ~~the collection rate only if the department determines there are~~  
10 ~~documented exigent circumstances that are beyond the control of~~  
11 ~~the producer or household battery stewardship organization.~~

12 ~~42450.4.~~

13 ~~42450.2. (a) On or before September 30, 2011, a producer or~~  
14 ~~the household battery stewardship organization of a household~~  
15 ~~battery shall submit a household battery stewardship plan to the~~  
16 ~~department. A household battery stewardship organization created~~  
17 ~~pursuant to this section shall be open for participation by all~~  
18 ~~producers of a household battery. department.~~

19 ~~(b) A producer, group of producers, or household battery~~  
20 ~~stewardship organization shall consult with stakeholders during~~  
21 ~~the development of the household battery stewardship plan,~~  
22 ~~including soliciting stakeholder comments and responding to~~  
23 ~~stakeholder comments prior to submitting the household battery~~  
24 ~~stewardship plan.~~

25 ~~(c) Each household battery stewardship plan for a covered~~  
26 ~~individual household battery shall address the environmental~~  
27 ~~impacts of a household battery over the entire life cycle of that~~  
28 ~~household battery, including household battery design,~~  
29 ~~manufacture, and distribution, and the collection, transportation,~~  
30 ~~reuse, recycling, and final disposition of discarded household~~  
31 ~~batteries, in accordance with this article. The plan shall include,~~  
32 ~~at a minimum, all of the following elements:~~

33 ~~(1) Contact information for all participating producers.~~

34 ~~(2) A description of the brands of the household batteries~~  
35 ~~covered by the plan.~~

36 ~~(3) Performance goals, including a detailed description of how~~  
37 ~~the performance goals will be achieved and how results will be~~  
38 ~~measured and including both of the following:~~

39 ~~(A) The collection rate shall be included as a performance goal~~  
40 ~~for a household battery.~~

1     ~~(B) The reuse rate and recycling rate for that household battery~~  
2     ~~shall be included in the performance goal.~~

3     ~~(4) An overview of the roles and responsibilities of key players~~  
4     ~~along the distribution chain for that household battery.~~

5     ~~(5) Financing methods for the household battery stewardship~~  
6     ~~plan.~~

7     ~~(6) Strategies for managing and reducing the life cycle impacts~~  
8     ~~of the household battery, steps that will be taken to ensure~~  
9     ~~environmentally sound management, and how impacts will be~~  
10    ~~tracked over time to show continual improvement.~~

11    ~~(7) Education and outreach activities.~~

12    ~~(8) A description of the consultation process used to consult~~  
13    ~~with affected stakeholders regarding the household battery~~  
14    ~~stewardship plan.~~

15    ~~(9) A description of product goals, including, but is not limited~~  
16    ~~to, household battery designing and materials content,~~  
17    ~~manufacturing, packaging, distribution, and end-of-life~~  
18    ~~management goals. The product goals shall address the use of~~  
19    ~~virgin material in the manufacture of the household battery, the~~  
20    ~~impact upon, or use of, water or energy by the household battery,~~  
21    ~~the use of, or generation of hazardous substances, by the household~~  
22    ~~battery, the carbon footprint of the household battery, the household~~  
23    ~~battery's longevity, the recycled content of the household battery,~~  
24    ~~and recyclability, where applicable.~~

25    ~~(10) Procedures for notifying all retailers engaged in the sale~~  
26    ~~of that household battery.~~

27    ~~42450.5. (a) On or before January 1, 2012, the department~~  
28    ~~shall review any plan submitted to the department and either~~  
29    ~~approve or disapprove the household battery stewardship plan~~  
30    ~~submitted to the department. If the department does not approve~~  
31    ~~the plan, the department shall notify the producer or organization~~  
32    ~~that submitted the plan and the producer or organization shall~~  
33    ~~revise and resubmit the disapproved household battery stewardship~~  
34    ~~plan within 30 days after receiving the notification.~~

35    ~~(b) All household battery stewardship plans submitted to the~~  
36    ~~department shall be available to the public on the department's~~  
37    ~~Internet Web site.~~

38    ~~(c) A producer shall notify the department 30 days before~~  
39    ~~instituting a significant or material change to a household battery~~  
40    ~~stewardship plan.~~



~~(d) The household battery stewardship plan shall be implemented upon the approval of the department by the producer or the household battery stewardship organization that submitted the plan.~~

*(c) Each household battery stewardship plan shall include, at a minimum, all of the following elements:*

*(1) Contact information for all participating producers.*

*(2) The collection rate for the household batteries subject to the plan, which shall be calculated in the following manner, except as provided in Section 42450.4:*

*(A) For the calendar year commencing January 1, 2014, the collection rate shall be 50 percent of the household batteries sold by the producers subject to the plan during the previous calendar year.*

*(B) On and after January 1, 2017, the collection rate shall be 70 percent of the household batteries sold by the producers subject to the plan during the previous calendar year.*

*(C) The plan shall have a target of achieving a 95 percent collection rate.*

*(3) A description containing all of the following elements:*

*(A) Brands of the household batteries covered by the plan.*

*(B) How the product goals will be achieved.*

*(C) The annual schedule for achievement of the collection rate.*

*(D) Convenient collection opportunities for consumers in all counties of the state.*

*(E) Reuse rate and recycling rate for household batteries.*

*(F) Roles and responsibilities of key players along the distribution chain.*

*(G) Procedures to be used for notifying retailers and wholesalers of the program.*

*(4) Financing method selected to sustainably fund the implementation of the plan.*

*(5) Education and outreach activities to maximize collection rates.*

*(6) A producer or product stewardship organization shall contact cities, counties, districts, and regional agencies, in whose jurisdictions the program will be implemented, to do either, or both, of the following:*

*(A) Enter into an agreement to reimburse the local public agency for the cost of collecting household batteries.*

1     (B) *Provide the local public agency with the location, hours,*  
2     *and contact information for the convenient collection points for*  
3     *household batteries that are located within the county where the*  
4     *local agency is located and are consistent with the plan.*

5     42450.3. (a) *A household battery stewardship program shall*  
6     *be considered in compliance with this article only if it achieves*  
7     *the collection rate specified in a plan that has been deemed*  
8     *complete by the department pursuant to Section 42450.5.*

9     (b) *If a program achieves a collection rate of 95 percent, the*  
10    *producer or household battery stewardship organization shall not*  
11    *be required to pay the annual fee imposed pursuant to subdivision*  
12    *(a) of Section 42450.10.*

13    42450.4. *A producer may petition the department for an*  
14    *adjustment to the collection rate. The department may grant an*  
15    *adjustment to the collection rate only if the department determines*  
16    *there are documented exigent circumstances that are beyond the*  
17    *control of the producer or household battery stewardship*  
18    *organization.*

19    42450.5. (a) *The department shall review a plan within 45*  
20    *days after the date the plan is received and either deem the plan*  
21    *complete or incomplete. If the department does not deem the plan*  
22    *complete, the department shall notify the producer or organization*  
23    *that submitted the plan of the deficiencies and the producer or*  
24    *organization shall revise and resubmit the plan within 45 days*  
25    *after receiving the notification. If the department deems the plan*  
26    *complete, the department shall, within 45 days after receipt, notify*  
27    *the producer or organization that the submitted plan is complete.*

28    (b) *The department shall make all household battery stewardship*  
29    *plans submitted to the department available to the public on the*  
30    *department's Internet Web site.*

31    (c) *A producer shall notify the department 30 days before*  
32    *instituting a significant or material change to a household battery*  
33    *stewardship plan.*

34    (d) *On or before July 1, 2012, and on or before July 1 annually*  
35    *thereafter, the department shall post on its Internet Web site a*  
36    *listing of the brands of household batteries for which the producer*  
37    *is in compliance with this article.*

38    42450.6. *On and after January 1, 2012, a producer, wholesaler,*  
39    *or retailer shall not offer a household battery for sale in this state*  
40    *or offer a household battery for promotional purposes in this state*

1 unless the producer or household battery stewardship organization  
2 of the household battery has submitted a household battery  
3 stewardship plan to the department pursuant to Section 42450.4  
4 and the household battery stewardship plan is approved by the  
5 department pursuant to Section 42450.5 and is being implemented  
6 pursuant to Section 42450.7. *plan submitted by the producer or*  
7 *household battery stewardship organization of that household*  
8 *battery has been deemed complete by the department pursuant to*  
9 *Section 42450.5.*

10 42450.7. A producer of a household battery shall do all of the  
11 following when implementing this chapter, including when  
12 implementing an approved household battery stewardship plan:

13 (a) ~~Collect the individual household battery to be reused or~~  
14 ~~recycled pursuant to the household battery stewardship plan for~~  
15 ~~the household battery submitted by the producer or household~~  
16 ~~battery stewardship organization pursuant to Section 42450.4, and~~  
17 ~~approved by the department pursuant to Section 42450.5.~~

18 (b) ~~Meet the performance goals included in household battery~~  
19 ~~stewardship plan, including achieving the collection rate established~~  
20 ~~pursuant to Section 42450.3.~~

21 (c) ~~Provide collection services, in accordance with Section~~  
22 ~~42450.8, for the household battery that does not charge a fee at~~  
23 ~~the time when the household battery is collected for either recycling~~  
24 ~~or disposal.~~

25 (d) ~~Pay all administrative and operational costs associated with~~  
26 ~~the household battery stewardship plan, including the costs of~~  
27 ~~collection, transportation, and recycling or disposal, or both, of~~  
28 ~~the household battery, including the amount determined pursuant~~  
29 ~~to Section 42450.10.~~

30 (e) ~~Submit the annual report required by Section 42450.9.~~

31 42450.8. A household battery shall be handled and recycled,  
32 or, if not feasible to be recycled, disposed of, in accordance with  
33 all state and federal laws and regulations and local ordinances and  
34 regulations, including, but not limited to, any law, regulation, or  
35 ordinance that regulates hazardous waste.

36 42450.9. (a) ~~On or before January 1, 2012, the department~~  
37 ~~shall adopt regulations specifying the information required to be~~  
38 ~~included in annual household battery stewardship plan reports.~~  
39 ~~Notwithstanding subdivision (b), the department may include, in~~

1 those regulations, alternative reporting requirements for purposes  
2 of those annual reports.

3 (b) ~~Beginning one year after a household battery stewardship~~  
4 ~~plan is approved or no later than January 1, 2013, whichever date~~  
5 ~~is earlier, and every subsequent year thereafter, each producer or~~  
6 ~~stewardship organization implementing a household battery~~  
7 ~~stewardship plan shall prepare and submit to the department an~~  
8 ~~annual report describing the activities carried out pursuant to the~~  
9 ~~household battery stewardship plan during the previous reporting~~  
10 ~~period. The report shall include all of the following, unless required~~  
11 ~~otherwise by the department pursuant to the regulations adopted~~  
12 ~~pursuant of subdivision (a), including, but not limited to, all of the~~  
13 ~~following:~~

14 (1) ~~Whether the producer or household battery stewardship~~  
15 ~~organization, in implementing the plan, attained the performance~~  
16 ~~goals for the household battery, and if the performance goals were~~  
17 ~~not met, what actions the producer or household battery~~  
18 ~~stewardship organization will take during the next reporting period~~  
19 ~~to attain those performance goals.~~

20 (2) ~~Whether the producer or household battery stewardship~~  
21 ~~organization, in implementing the plan, attained the household~~  
22 ~~battery goals for the household battery, and if the household battery~~  
23 ~~goals were not met, what actions the producer or stewardship~~  
24 ~~organization will take during the next reporting period to achieve~~  
25 ~~those household battery goals.~~

26 (3) ~~A description of the outreach and education activities~~  
27 ~~undertaken during the reporting period to inform consumers and~~  
28 ~~other stakeholders of the collection opportunities and safe~~  
29 ~~household battery handling described in the household battery~~  
30 ~~stewardship plan.~~

31 (4) ~~A description of those areas in the state that have been served~~  
32 ~~by the household battery stewardship plan and any barriers to, or~~  
33 ~~opportunities for, increased coverage in the future.~~

34 (5) ~~A description of the actions undertaken to manage and reduce~~  
35 ~~the life cycle impacts of the household battery.~~

36 (6) ~~The total cost to implement the household battery~~  
37 ~~stewardship plan and a description of any economic or job impacts~~  
38 ~~to stakeholders.~~

39 (c) ~~The department shall review a report submitted pursuant to~~  
40 ~~this section and shall approve the report if the department~~

1 ~~determines the report contains the information required by this~~  
2 ~~section.~~

3 ~~(d) The department shall make all reports submitted to the~~  
4 ~~department pursuant to this section available to the public on the~~  
5 ~~department's Internet Web site.~~

6 *42450.7. Upon receiving notification from the department*  
7 *pursuant to Section 42450.5 that a plan is complete, the producer*  
8 *or the household battery stewardship organization shall do all of*  
9 *the following:*

10 *(a) Implement the plan, including, but not limited to, achieving*  
11 *the collection rate specified in the plan.*

12 *(b) Pay the administrative fees imposed pursuant to subdivision*  
13 *(a) of Section 42450.10.*

14 *(c) Submit the annual report required by Section 42450.9.*

15 *42450.8. A wholesaler or a retailer that distributes or sells*  
16 *household batteries shall monitor the department's Internet Web*  
17 *site to determine if the sale of a producer's household batteries is*  
18 *in compliance with this article.*

19 *42450.9. (a) On or before April 1, 2013, and every subsequent*  
20 *year thereafter, each producer or stewardship organization*  
21 *implementing a plan shall prepare and submit to the department*  
22 *an annual report describing the activities carried out pursuant to*  
23 *the plan during the previous calendar year. The annual report*  
24 *shall include, but is not limited to, all of the following:*

25 *(1) The extent to which each element of the plan specified in*  
26 *subdivision (c) of Section 42450.2 is attained, including, but not*  
27 *limited to, achieving the collection rate specified in the plan.*

28 *(2) The actions that the producer will take during the next*  
29 *reporting period to meet the product goals specified in the plan*  
30 *that have not been met.*

31 *(3) A report of the total sales data for household batteries sold*  
32 *in the state for the previous calendar year.*

33 *(b) The department shall review an annual report submitted*  
34 *pursuant to this section and shall deem it complete if the*  
35 *department determines the report contains the information required*  
36 *by this section.*

37 *(c) If the department does not act on a report within 45 days of*  
38 *receipt, the report shall be deemed to be complete.*

1 (d) The department shall make all reports submitted to the  
2 department pursuant to this section available to the public on the  
3 department's Internet Web site.

4 (e) If the collection rate for the household batteries subject to  
5 the plan meets the collection rate specified in subdivision (b) of  
6 Section 42450.3, the report shall be submitted once every two  
7 years.

8 42450.10. (a) The producer or household battery stewardship  
9 organization submitting a household battery stewardship plan shall  
10 pay the department an administrative fee in the amount of  
11 \_\_\_\_\_dollars (\$\_\_\_\_\_) when the plan is submitted for review and  
12 approval and thereafter pay an annual administrative fee of  
13 \_\_\_\_\_percent of the household battery stewardship program costs  
14 as reported under paragraph (6) of subdivision (b) of Section  
15 42450.9: \_\_\_\_\_dollars (\$\_\_\_\_\_). The department shall adjust the  
16 amount of these fees every two years to reflect increases or  
17 decreases in the cost of living during the prior two calendar years,  
18 as measured by the Consumer Price Index issued by the  
19 Department of Industrial Relations or by a successor agency. If  
20 the program implementing the plan submitted by the producer  
21 meets the collection rate specified in subdivision (b) of Section  
22 42450.3, the producer or household battery stewardship  
23 organization is not required to pay the fees imposed pursuant to  
24 this subdivision.

25 (b) The total amount of annual fees collected pursuant to this  
26 section shall not exceed the amount necessary to recover costs  
27 incurred by the department in connection with the administration  
28 and enforcement of the requirements of this article.

29 42450.11. (a) The Household Battery Stewardship Account  
30 and the Household Battery Stewardship Penalty Subaccount are  
31 hereby established in the Integrated Waste Management Fund.

32 (b) All fees collected pursuant to this article shall be deposited  
33 in the Household Battery Stewardship Account and may be  
34 expended by the department, upon appropriation by the Legislature,  
35 to cover the department's costs to implement this article.

36 (c) All penalties collected pursuant to this article shall be  
37 deposited in the Household Battery Stewardship Penalty  
38 Subaccount and may be expended by the department, upon  
39 appropriation by the Legislature, to cover the department's costs  
40 to implement this article.

(d) All funds collected may be expended as incentives to enhance reuse, recyclability, and redesign efforts and to reduce environmental and safety impacts of household batteries.

42450.12. (a) If, after holding a public hearing, the department finds that a producer has failed to make a good faith effort to comply with this article, including, but not limited to, failing to submit a plan pursuant to Section ~~42450.4~~ 42450.2 or failing to submit an annual report pursuant to Section 42450.9, the department shall issue a compliance order with a schedule for achieving compliance.

(b) If, after issuing an order and schedule for compliance pursuant to subdivision ~~(e)~~ (a), the department finds that the producer has failed to make a good faith effort to comply with this article, the department may impose an administrative civil penalty of ~~ten thousand dollars (\$10,000)~~ five thousand dollars (\$5,000) per day until the producer achieves compliance.

(c) For purposes of this section, “good faith effort” means all reasonable and feasible efforts ~~to~~ by a producer towards implementing the requirements of this article, including, but not limited to, meeting the performance goals specified in the plan.

42450.13. (a) In addition to the penalty specified in Section 42450.12, the department may impose an administrative civil penalty of ~~ten thousand dollars (\$10,000)~~ per day against a producer or retailer who violates Section 42450.6.

~~(b) Prior to enforcing any penalty pursuant to this section, the department shall issue a compliance order to the producer or retailer selling the household battery allowing 30 days from the date of the compliance order to cease sales of the household battery.~~

~~42450.14. (a) The department, or its designee, may inspect, audit, or require and review third-party audits of producers, household battery stewardship organizations, and service providers, including collectors and recyclers, that are utilized to fulfill the requirements of a household battery stewardship plan.~~

~~(b) For purposes of this section, a “service provider” means any person who is authorized to perform an action to implement the household battery stewardship plan with regard to the collection, recycling, reuse, or disposal of a household battery, but does not include the consumer of the household battery.~~

~~42450.15. The department shall adopt regulations for the imposition of administrative civil penalties pursuant to this article.~~

1 *penalty not to exceed one thousand dollars (\$1,000) per day*  
2 *against a producer, wholesaler, or retailer that violates Section*  
3 *42450.6.*

4 *(b) A producer, wholesaler, or retailer that removes from sale*  
5 *any household battery within 90 days of discovery that it is not in*  
6 *compliance with this article shall not be deemed to be in violation*  
7 *of Section 42450.6.*

8 *(c) Prior to enforcing any penalty pursuant to this section, the*  
9 *department shall issue a compliance order to the producer,*  
10 *wholesaler, or retailer selling the household battery allowing 30*  
11 *days from the date of the compliance order to cease sales of the*  
12 *household battery.*

13 42450.16. This article does not limit, supersede, duplicate, or  
14 otherwise conflict with the authority of the Department of Toxic  
15 Substances Control under Section 25257.1 of the Health and Safety  
16 Code to fully implement Article 14 (commencing with Section  
17 25251) of Chapter 6.5 of Division 20 of the Health and Safety  
18 Code, including the authority of the department to include  
19 household batteries in its household battery registry.